

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

UNITED STATES OF AMERICA,

v.

MICHAEL KENT,

Defendant.

CRIMINAL ACTION FILE

NO. 4:17-CR-0039-06-JPB-WEJ

**NON-FINAL REPORT AND RECOMMENDATION  
REGARDING COMPETENCY OF MICHAEL KENT**

This matter is before the Court for a determination whether defendant Michael Kent is competent to stand trial. Upon defendant's Motion [208], the undersigned ordered the Bureau of Prisons ("BOP") to conduct a psychiatric or psychological examination of defendant in accordance with 18 U.S.C. §§ 4241(b) and 4247(b). (See Order [210] of July 17, 2019.) On October 9, 2019, Dr. Jeremiah Dwyer submitted a report [279] evaluating defendant and opined that he was competent to stand trial. The undersigned conducted a hearing [296] with Dr. Dwyer on November 21, 2019. Dr. Dwyer opined that defendant was competent; however, he noted that defendant consistently portrayed himself with exaggerated cognitive defects (i.e., malingering), thus preventing the accurate assessment of potential defects.

In an effort to obtain a more accurate assessment of defendant's cognitive functioning, the undersigned issued an Order [299] on December 3, 2019, directing that, in accordance with Dr. Dwyer's recommendation, defendant be assessed again by the BOP. The results of that second evaluation were conveyed to the Court in a report [313] dated January 22, 2020. This second evaluation, conducted by Dr. Haley Wentowski, opined that defendant was not malingering, that he suffered from a mild intellectual disability, and that he was competent to stand trial. At a hearing in this matter on February 21, 2020 [315], Dr. Wentowski testified that there was not reasonable cause to believe that defendant was presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.


Given the reports of Drs. Dwyer and Wentowski, their testimony in open Court, and the fact that counsel for defendant has not challenged the experts' opinions, the undersigned **RECOMMENDS** that defendant be found competent under the standards set out in 18 U.S.C. § 4241.

The undersigned **FURTHER REPORTS** that Dr. Wentowski has stated that, when interacting with someone like defendant who has a mild intellectual disability, the speaker should brief and debrief the individual at key points in the legal

proceeding, use basic language, and break the information provided into segments.

(See Jan. 22, 2020 Report [313], at 8.)

**SO RECOMMENDED**, this 21st day of February, 2020.

  
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WALTER E. JOHNSON  
UNITED STATES MAGISTRATE JUDGE